

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Lee V. Thomas, III,)	C/A No. 8:17-cv-02732-DCC
)	
Petitioner,)	
)	
vs.)	
)	ORDER
Warden Bonita S. Mosley,)	
)	
Respondent.)	
_____)	

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings. On April 17, 2018, Respondent filed a Motion to Deny Habeas Petition. ECF No. 27. The next day, this Court issued an Order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), in which Petitioner was advised of the summary judgment/dismissal procedure and the possible consequences if he failed to respond adequately. ECF No. 28. Despite this explanation, Petitioner did not respond to the Motion. Out of an abundance of caution for a pro se party, the Court filed an Order on May 25, 2018, allowing Petitioner until June 14, 2018, to respond to the Motion; the Order was returned as undeliverable. ECF Nos. 31, 34.

On June 19, 2018, the Magistrate Judge issued a Report and Recommendation ("Report") recommending dismissal of this action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Petitioner failed to comply with an Order of this Court and failed to prosecute this action. ECF No. 36. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report. *Id.* Petitioner failed to

file objections or update his address and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts and incorporates the Report by reference in this Order. This action is **DISMISSED** with prejudice pursuant to Rule 41(b) for failing to prosecute this action or comply with an Order of this Court.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

July 11, 2018
Spartanburg, South Carolina